

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 1/4/16

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ROBERTO CIAPRAZI,

Plaintiff,

-against-

DANIEL F. MARTUSCELLO III,
JOSEPH F. BELLNIER, MICHAEL CAPRA, W.
KEYSER, W. WINSHIP, BRIAN D. KELLY, R.
BRERETON, V. GEORGE, D. McCANTS, W. RAMOS,
A. McKENZIE, J. BRIGGS, J. HARVEY, J. MILLER, N.
STEWART, JUNI DAWKINS, PAUL O'BRIAN, P.
LOPES,

Defendants.
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ORDER

13-CV-4967 (VEC) (FM)

VALERIE CAPRONI, United States District Judge:

Plaintiff Roberto Ciaprazi, an inmate at Sing Sing, initiated this action *pro se*, asserting twenty-four constitutional and state law causes of action against nineteen officials of the New York State Department of Corrections and Community Supervision. On March 24, 2015, the Court dismissed some of Plaintiff's claims. Dkt. 145. On April 3, 2015, Plaintiff filed a renewed motion for a temporary restraining order requiring the facility to open the windows and turn off the lights at night in the section of Sing Sing in which he was housed or, in the alternative, to move him to a different facility. Dkt.150. On April 7, 2015, Plaintiff filed a renewed motion for a temporary restraining order regarding the same issues but with some modifications. Dkt.153. On May 28, 2015, Plaintiff requested that the Magistrate Judge convert his motion for a temporary restraining order to an application for a preliminary injunction. Dkt. 170. On December 2, 2015, Chief Magistrate Judge Frank Maas issued a Report and Recommendation ("R&R"), recommending that the Court deny Plaintiff's motion for mootness because Plaintiff has been transferred from Sing Sing to the Fishkill Correctional Facility.

R&R 2 (Dkt. 190). Chief Magistrate Judge Maas further determined that Plaintiff's claims for injunctive relief do not escape mootness because the issue is not capable of repetition without review and because Plaintiff is not entitled to seek injunctive relief on behalf of other inmates. R&R 4-5. Neither party has objected to the R&R.

DISCUSSION

"A district court reviewing a magistrate judge's report and recommendation 'may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.'" *Seifts v. Consumer Health Solutions LLC*, No. 05-CV-9355(ER)(LMS), 2015 WL 1069270, at *2 (S.D.N.Y. Mar. 11, 2015) (quoting 28 U.S.C. § 636(b)(1)). "The district court must review *de novo* the portions of the Report to which timely objections have been made." *Sadagheh v. Heath*, No. 12-CV-184(LTS)(GWG), 2015 WL 1239871, at *1 (S.D.N.Y. Mar. 18, 2015) (citing *United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997)).


CONCLUSION

Careful review of the Report reveals that there is no facial error in its conclusions. The R&R is ADOPTED in full, and Plaintiff's motion is DENIED. Because Petitioner filed no written objections to the R&R and because the R&R expressly warned that the failure to file timely objections may result in the waiver of any such objections, appellate review of this decision is precluded. *See* Fed.R.Civ.P. 72; *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir.1989). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this ruling would not be taken in good faith. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). The Clerk of the Court is respectfully directed to terminate docket entries 150 and 153.

The Clerk of the Court is further directed to mail a copy of this Order to Plaintiff and to note service on the docket.

SO ORDERED.

Date: January 4, 2016
New York, NY


VALERIE CAPRONI
United States District Judge